IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3914 of 1995

STATE OF RAJASTHAN
V/S
M/S SAIFEE MARBLES & ANR

Mr. OP BOOB, A.G.A., for the appellant / petitioner

Mr. ANUJ KALA, for the respondent

Date of Order : 22.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

This petition has been filed by the petitioner seeking to challenge the impugned orders of the Board of Revenue, and the Revenue Appellate Authority, being dated 25.2.1994, and 3.5.1993 respectively, and for restoration of the order, Annex.1 passed by the Collector.

The facts of the case, according to the petitioner are, that the respondent No.1 was allotted a piece of land vide order Annex.1, and this was allotted at a price of Rs.40,000/- per bigha, which is pleaded in the writ petition to be the rate prevailing at the time, for the area in which the land was allotted. In para-2, it is pleaded that this was the prevalent rate, as is further clear from the documents which were executed among the different persons, who too were allotted the land in the same area. Then in para-3, it is pleaded that the allotment

was made while determining the rate under Rule 3(k) of the Rajasthan Land Revenue (Allotment of Land for Industrial Purpose) Rules, 1959, which provides the price on the prevalent market value. Then it is pleaded that aggrieved of Annex.1, appeal was filed before the Revenue Appellate Authority, and the price charged was disputed. The Revenue Appellate Authority however found that the land in the vicinity has been sold in the year 1989 at a price of Rs.5000/- per bigha, while the allotment in question has been made in 1992, and therefore, there is possibility of escalation in the price of the land, and therefore, the price was determined at Rs.10,000/- per bigha. Against that, the petitioner filed a second appeal before the Board of Revenue, who in turn upheld that order.

The two orders of the Revenue Appellate Authority and the Board of Revenue are challenged, inter-alia on the ground, that the orders are based on no findings, and therefore, are liable to be set aside. Then it is contended that it was proved and established by cogent evidence that allotment of land was made, while referring to the fixed prices prevailing in the market, and that cogent documentary evidence was also submitted on the record, which was not considered properly, and on a hypothesis and imagination, the price was arrived at Rs.5000/- per bigha, which is highly improbable, and devoid of any force. Then it was contended that the Revenue Appellate Authority has

taken into consideration the documents of the year 1989, while the allotment in question was of the year 1992, and therefore, prices of 1989 could not be considered, and the documents showing the prices in the year 1993 have been ignored, which is bad. It was also contended that the land in question is not worth agriculture in fact, and that the allotments were made to other persons in 1992 and 1993 @ Rs.40,000/- per bigha, therefore, this should have been the price for the land in question.

A reply has been filed on behalf of the respondent, contending inter-alia, that the land allotted is Banjar and rocky. Then it has also been pleaded that the land allotted to the petitioner cannot be compared with the land covered by Annex.2 and 3. It was contended that the land was allotted at exorbitant rate, which has rightly been reduced. Thus, in other words, the impugned judgments have been duly supported.

Arguing the writ petition also, both the learned counsel practically reiterated the same submissions as contained in the pleadings.

I have considered the submissions and have gone through the documents available.

A look at the orders, Annex.5 and 6 shows, that in

Anex.5, the learned Revenue Appellate Authority has noticed the contention, that the price of the land has been determined with the opinion of the Tehsildar, and that since the land is being used for industrial purposes, the price determined is proper. Then while deciding the appeal, it has been considered by the Revenue Appellate Authority, that the land in question was reserved for industrial purposes by exercising powers under Section 92 of the Land Revenue Act vide order dated 28.10.1992, and by another order of the same date, pursuant to the application of the respondent dated 13.3.90, the land has been allotted, and in para-10 of the decision, the price is said to have been determined in the meeting of the Allotment Advisory Committee dated 20.10.92, on the opinion of the Tehsildar, while as a matter of fact, no such opinion, or advise is available on record, rather it does not even appear to have been called. Then provisions of Rule 3 of the Rules have been quoted, and it was found, that the price was required to be determined on the basis of the similar agricultural land near the area. Then the sale deeds produced on behalf of the respondents of the year 1989 of the adjoining lands have been considered, and it has been found, that price of the land comes to around Rs.5,000/- per bigha. However, since those prices are of the year 1989, while the present allotment is of 1992, double the price has been taken into consideration, and the order Annex.5 has been passed determining price @ Rs. 10,000/- per bigha. Then even in

appeal, which was filed before the Board of Revenue, all that was contended was, that in view of growth of marble industries in the area, the prices of the land had escalated, and the petitioner purported to produce other allotment orders of the year 1992 and 1993. The learned Revenue Board found the order of the learned Revenue Appellate Authority to be proper, inasmuch as, from the report of the Tehsildar and Patwari, the price of the land in the vicinity was not beyond Rs.5000/- per bigha, still the Revenue Appellate Authority has fixed it at Rs.10,000/- per bigha.

The petitioner has relied much on, Annex.2, 3 and 4, to contend that this was the price on which the land was allotted to other persons, and the amount was deposited by the allotees. Suffice it to say, that these three documents are not of any consequence, inasmuch as, firstly these documents do not show the basis, on which the price was arrived at. Then these are subsequent orders, and thirdly even if some persons suffer illegality in silence, that does not render an illegality valid. The alive respondent had challenged the order, Annex.1, while identical orders might not have been challenged by other persons, but then if the order is challenged, then it has to be found, as to whether the price determined is in accordance with Rule 3 or not. The minutes of the meeting dated 20.10.92 have also not been shown, whether to the Board of Revenue or to this

Court, even to show, as to what was decided.

It is well nigh possible, that in that meeting, a decision might have been taken to allot the land for industrial purposes @ Rs.40,000/- per bigha, even without considering, as to what is the prevailing market price of the agricultural land of the similar nature in the vicinity. Had it not been so, or had it been that in the meeting, the prevalent market price of the land was considered, there was no reason for the petitioner not to have produced those minutes before the learned Courts below, or even before this Court.

Apart from the above, there is no material on record whatever, to show on the side of the petitioner, that the price mentioned in Annex.1 is the price chargeable in accordance with Rule 3.

May be that the price of Rs.5,000/- per bigha was prevalent only in the year 1989, and there was no material to show, as to what was the price prevalent in the year 1992, but then the learned Revenue Appellate Authority has also taken into consideration the passage of time, and escalation in the prices, and has arbitrarily doubled the amount, and fixed the price at Rs.10,000/-, which has not been challenged by the respondent.

In these circumstances, in absence of any material, having been shown even to this Court, that as on the date of allotment of the land to the petitioner, the price thereof, according to the provisions of Rule 3, was anything above Rs.10,000/- per bigha, I do not find any sufficient ground to interfere with the impugned orders.

Thus, the writ petition is devoid of any merit, and is, therefore, dismissed. The parties shall bear their own costs.

(N P GUPTA),J.

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